



INTERIOR BOARD OF INDIAN APPEALS

Hawley Lake Homeowners' Ass'n v. Deputy Assistant Secretary -
Indian Affairs (Operations)

13 IBIA 134 (03/21/1985)

Reconsideration granted:
13 IBIA 197

Judicial review of this case:
Appeal Filed, *Hawley Lake Homeowners' Ass'n v. Hodel*,
No. CIV 86-0125 PCT CLH (D. Ariz.)

Related Board case:
13 IBIA 276
Reconsideration denied, 13 IBIA 335



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

HAWLEY LAKE HOMEOWNERS'	:	Order Referring Case for
ASSOCIATION,	:	Evidentiary Hearing
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 84-55-A
DEPUTY ASSISTANT SECRETARY--	:	
INDIAN AFFAIRS (OPERATIONS),	:	
Appellee	:	March 21, 1985

On September 27, 1984, the Board of Indian Appeals (Board) received a notice of appeal from the Hawley Lake Homeowners' Association (appellant), through counsel, Alvin R. Shrago, Esq., Phoenix, Arizona. Appellant seeks review of a July 27, 1984, decision of the Deputy Assistant Secretary--Indian Affairs (Operations) upholding the non-renewal of residential and recreational leases entered into between appellant's members (lessees) and the White Mountain Apache Tribe, Whiteriver, Arizona (Tribe) (lessor).

In the brief accompanying its notice of appeal, appellant states that it has never had an opportunity to prove its allegations that lessees had relied upon an express intention by lessor to renew their leases, set forth in a 1969 resolution adopted by the Tribe, in constructing houses and making improvements to the leased land. Appellant asks either that appellee's decision be vacated and remanded to the Area Director, Bureau of Indian Affairs, for such a hearing or, alternatively, that the Board require a hearing in Arizona pursuant to 43 CFR 4.337(a). After a review of the record, the Board concludes that such an evidentiary hearing would be beneficial in the resolution of this case and therefore grants appellant's request.

The case is referred to the Hearings Division of this Office for a hearing and recommended decision by an Administrative Law Judge to resolve the questions of fact and law involved. The hearing shall be conducted in full compliance with the administrative due process standards generally applicable to other hearings proceedings conducted by Administrative Law Judges of the Hearings Division. The present administrative record may be considered as part of the evidentiary record in the hearing.

Pending the completion of this hearing and the issuance of the recommended decision, further procedures will be established by the Administrative Law Judge assigned to this case.

Therefore, it is ordered that this case is referred to the Hearings Division for assignment to an Administrative Law Judge who shall conduct a hearing and recommend a decision to the Board. As provided in 43 CFR 4.339, any party may file exceptions or other comments with the Board within 30 days from receipt of the recommended decision. The Board will then inform the parties of any further procedures in the appeal or issue a final decision.

//original signed

Bernard V. Parrette
Chief Administrative Judge

//original signed

Jerry Muskrat
Administrative Judge

//original signed

Anne Poindexter Lewis
Administrative Judge